

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 98-899

April 27, 2000

MAINE PUBLIC UTILITIES COMMISSION  
Investigation into Rates of Oxford Telephone  
Company Pursuant to 35-A M.R.S.A. § 7101-B

**CORRECTED ORDER<sup>1</sup>**

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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**I. SUMMARY**

In this Order, we approve a Stipulation which resolves all of the issues in the above-captioned matter. The Stipulation provides that on May 30, 2001, Oxford Telephone Company (Oxford) will lower its intrastate access rates to the 1999 NECA tariff rates and that neither the Commission nor Oxford will initiate a general rate proceeding until June 1, 2002, absent specific circumstances.

**II. BACKGROUND**

On May 27, 1997, the Maine Legislature enacted 35-A M.R.S.A. § 7101-B, which required the Commission to establish intrastate access rates for local exchange carriers based on their interstate access rates as established by the Federal Communications Commission (FCC) by May 30, 1999, and every two years thereafter. On December 19, 1997, we adopted Section 8(J) of Chapter 280 of our Rules, which required Oxford (and all other independent telephone companies (ITCs)) to reduce its intrastate access rates by 40% of the difference between its existing rates and the level of the interstate access rates by May 30, 1998. On May 27, 1998, the Commission approved Oxford's initial reduction of access rates.

On November 24, 1998, we opened formal investigations into the rates of each ITC, including Oxford. The Office of the Public Advocate (OPA), Bell Atlantic and TAM subsequently petitioned to intervene in this case and all three petitions were granted.

On January 28, 1999, we issued our Interim Order in this case as well as in all of the other ITC investigations. The Interim Order required Oxford to reduce its rates to the NECA Pool Disbursement levels by May 30, 1999. It also stated that it was our goal to reduce access rates to NECA Tariff levels by May 31, 2001.

On January 27, 1999, the Staff conducted a Technical Conference in this case. On February 25, 1999, Oxford filed a letter with the Commission indicating that its rates were already in compliance with Section 8(J) of Chapter 280 of the Commission's

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<sup>1</sup>This Order corrects ordering paragraph No. 2 on page 4 by stating that the Revised Schedules submitted by Oxford are approved for effect on October 1, 2000, as requested by Oxford, rather than April 15, 2000 as stated in the April 15, 2000 Order.

Rules. In response to a Staff request, Oxford filed backup data to support Oxford's proposed filing on May 3, 1999. On May 30, 1999, we allowed Oxford's revised Access Rate Tariff to go into effect.

On July 30, 1999, Oxford provided the Staff and the Public Advocate with an analysis of the impact of the access rate reductions. Over the next months, several meetings and conference calls took place to discuss access rate reductions and to discuss the elements of a plan for transitioning to access rates closer to the NECA Tariff level by May 2001. Additionally, on January 19, 2000, a public meeting was held in the Town of Sumner. No customers attended the meeting. The discussions and lack of public participation at the public meeting produced the resolution contained in the Stipulation.

On April 11, 2000, Oxford filed the attached Stipulation which was signed by the OPA and Oxford. TAM and Bell Atlantic have indicated that while they were not signing the Stipulation, they do not object to it.

### III. DECISION

#### A. Standard

In reviewing a stipulation submitted by the parties to a proceeding, we must consider:

1. whether the parties joining the stipulation represent a sufficiently broad spectrum of interests that the Commission can be sure that there is no appearance or reality of disenfranchisement;
2. whether the process that led to the stipulation was fair to all parties; and
3. whether the stipulated result is reasonable and is not contrary to legislative mandate.

See Consumers Maine Water Co., Proposed General Rate Increase of Bucksport and Hartland Divisions, Docket No. 96-739 (Me. P.U.C. July 3, 1997). We have also recognized that we have an obligation to ensure that the overall stipulated result is in the public interest. Id.

#### B. Discussion

First, we find that the fact that the OPA signed the Stipulation and that Bell Atlantic and TAM did not object to it provides sufficient evidence that there is no appearance or reality of disenfranchisement. The OPA represents the public before the Commission and thus, by signing the Stipulation, indicates its belief that the Stipulation benefits ratepayers. Bell Atlantic will likely be the biggest payer of Oxford's access

rates and thus, by not objecting to the Stipulation, indicates that the Stipulation adequately addresses its, as well as other access payers', concerns.

Second, based upon our knowledge of our staff's participation in the process that led to the stipulation, we find that it was fair to all parties. All meetings were noticed to all parties and all parties were given an opportunity to meaningfully participate in the discussions that led to the Stipulation. We find this process inherently fair.

Third, we find that the stipulated result is reasonable and complies with the legislative mandate found in 35-A M.R.S.A. § 7101-B. The most pertinent provisions of the Stipulation are as follows:

Access Rate Reduction. On May 30, 2001, Oxford will reduce its intrastate access rates to the NECA Tariff No. 5 interstate switched access rates effective for Oxford on August 1, 1999. The new rates will stay in effect until at least May 29, 2003.

Rate Case Moratorium. Until June 1, 2002, neither Oxford nor the Commission will initiate a rate proceeding, subject to certain exceptions.

Exceptions to Rate Case Moratorium. The Rate Case Moratorium may be terminated or modified if Oxford is required to reduce its intrastate access rates to a level 10% below the agreed upon levels because of an order, statute, or rule, or if certain exogenous events result in a net 10% or more increase or decrease in the costs, revenues, or net operating income of Oxford.

Notice of Initiation of Rate Proceeding. If either the Commission or Oxford believes that the rate case moratorium should be terminated, it must give notice of its intention to file a rate case and allow an opportunity to object to the notice. The 21-day deadline for filing an objection must be prominently noticed with the initial notice filing.

Information on Separations Changes. If the FCC issues an order which "freezes" or changes the separations factors or categories, or declares internet or other ESP minutes of use to be jurisdictionally interstate in nature, then, within 60 days of the issuance of the order, Oxford will provide the Commission and the Public Advocate an earnings analysis using the most recently available test year, which reflects the effects of the FCC's order.

Buckfield to Lewiston BSCA Route. The rate schedules contained in the tariff being filed concurrently with this Stipulation reflect the addition of Lewiston to the Premium Calling Area of the Buckfield exchange, in accordance with the Commission's Basic-Service Calling Area Rule.

Revised Rate Structure. In addition to the Stipulation, Oxford has filed revised rate schedules designed to implement a uniform, two rate group rate structure for Oxford and Oxford West Telephone Company in accordance with agreements reached during negotiations.

We find that, taken together, these provisions are reasonable, meet section 7101-B's legislative mandates, and promote the public interest by protecting ratepayers from a rate increase related to the access rate reductions until well after the NECA 5 rates are put in place. Given the dynamic nature of the telecommunications industry and anticipated changes in separations, it is possible that by the time Oxford's rate case moratorium ends no rate increase may be needed due to the effects of the access rate reductions. We note that the notice provisions contained in Section 3(e) of the stipulation are a deviation from the notice requirements contained in the Commission's rules. We find that the notification provisions are reasonable, given the context of their anticipated use.

Accordingly, we

O R D E R

1. That the Stipulation attached as Attachment A and filed on April 11, 2000, is approved;
2. That the Revised Rate Schedules attached as Attachment B and filed on April 11, 2000, are approved and effective on October 1, 2000; and
3. That Oxford file access rate compliance tariffs by February 1, 2001.

Dated at Augusta, Maine, this 27th day of April, 2000.

BY ORDER OF THE COMMISSION

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Raymond J. Robichaud  
Acting Administrative Director

COMMISSIONERS VOTING FOR:

Welch  
Nugent  
Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.

2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.

3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.